

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

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| FIREROCK GLOBAL OPPORTUNITY FUND LP, Individually and on Behalf of All Others Similarly Situated, |) | Case No. 1:15-cv-03813 |
| |) | <u>CLASS ACTION</u> |
| Plaintiff, |) | Judge Manish S. Shah |
| |) | |
| vs. |) | |
| RUBICON TECHNOLOGY, INC., et al., |) | |
| Defendants. |) | |
| |) | |

REPLY MEMORANDUM IN FURTHER SUPPORT OF LEAD PLAINTIFF'S MOTION
FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT AND PLAN OF
ALLOCATION OF SETTLEMENT PROCEEDS, AND AN AWARD OF ATTORNEYS'
FEES AND EXPENSES

Lead Plaintiff and its counsel submit this reply memorandum in further support of Lead Plaintiff's Motion for Final Approval of Class Action Settlement and Plan of Allocation of Settlement Proceeds, and an Award of Attorneys' Fees and Expenses (the "Motion") (Dkt. No. 74), pursuant to the Court's January 28, 2016 Order Preliminarily Approving Settlement and Providing for Notice ("Notice Order") (Dkt. No. 69). This memorandum served to provide an opportunity to respond to any objections to the Settlement, Plan of Allocation or requested attorneys' fees, but there were none. This memorandum reports (1) on the implementation and results of the class notice program instituted pursuant to the Notice Order, (2) that there have been no objections to any of the relief sought by the Motion, and (3) that there have been no requests for exclusion from the Class. Therefore, the Settlement, Plan of Allocation, and award of attorneys' fees and expenses should be approved.

Pursuant to the Notice Order, more than 7,000 copies of the Notice of Pendency and Proposed Settlement of Class Action (the "Notice") were mailed to potential Class Members and their nominees. *See Declaration of Carole K. Sylvester Regarding (A) Mailing of the Notice of Pendency and Proposed Settlement of Class Action and the Proof of Claim and Release Form, (B) Publication of the Summary Notice, (C) Internet Posting, and (D) Requests for Exclusion Received to Date ("Sylvester Decl.")* (Dkt. No. 80), ¶¶4-11. In addition, the Summary Notice was transmitted over the *PR Newswire* on February 24, 2016, and published in the national edition of *Investor's Business Daily* on February 26, 2016. *Id.*, ¶14. Further, a dedicated website was created, and relevant documents and dates were posted thereon. *Id.*, ¶13.

The notice process more than adequately advised potential Class Members of the terms of the Settlement, the proposed Plan of Allocation of Settlement proceeds, the request for attorneys' fees in the amount of 33% of the Settlement Fund and expenses not to exceed \$50,000, plus interest; the date, time and place of the final approval hearing; a Class Member's right to object or to be otherwise heard with respect to any of these matters; the right to request exclusion from the Class; and the procedures for objecting and requesting exclusion.

To date, after the Court-approved notice program, including the mailing of more than 7,000 Notices to potential Class Members and nominees, the Class' response to the Settlement, Plan of Allocation, and Lead Counsel's request for an award of attorneys' fees and expenses has been favorable. The deadline for objections and requests for exclusion – April 18, 2016 – has passed and counsel are not aware of a single request for exclusion or objection to the Settlement, Plan of Allocation or request for an award of attorneys' fees and expenses.

A significant factor to be considered by the Court in connection with the approval of the Settlement, Plan of Allocation, and the award of attorneys' fees and expenses requested is the reaction of the Class and the amount of opposition presented. A relatively small number of class member objections, or no objections, is an indication of a settlement's fairness and the reasonableness of counsel's requested fees. *See Swift v. Direct Buy, Inc.*, No. 2:11-CV-401-TLS, 2013 U.S. Dist. LEXIS 152618, at *12 (N.D. Ind. Oct. 24, 2013) (approving settlement where 17 objections were filed and the settlement received "limited opposition"); *Wong v. Accretive Health, Inc.*, No. 1:12-cv-03102, 2014 U.S. Dist. LEXIS 181036, at *4 (N.D. Ill. Apr. 30, 2014) (Coleman, J.) (awarding fees and expenses after considering and overruling single objection); *McDaniel v. Qwest Commc'n Corp.*, No. 05 C 1008, 2011 U.S. Dist. LEXIS 154591, at *13 (N.D. Ill. Aug. 29, 2011) (Pallmeyer, J.) ("The number and quality of objections are often deemed indicative of the class's reaction to a request for attorneys' fees.").

The lack of opposition, when coupled with other indicia of fairness, is evidence that the Class supports the Settlement, the Plan of Allocation and Lead Counsel's fee and expense request, and thus weighs in favor of approval.

For the reasons set forth herein and in previously submitted memoranda and declarations, Lead Plaintiff and its counsel submit that the Settlement is a highly favorable result for the Class, and the Plan of Allocation, which was developed by Lead Counsel in conjunction with their internal damages consultant, is a fair and equitable method for distributing the Net Settlement Fund. Therefore, both should be approved as fair, reasonable, and adequate. Finally, Lead Counsel's requested attorneys' fees of 33% of the Settlement Fund and expenses of \$14,543.14, plus interest at

the same rate and for the same period as that earned by the Settlement Fund, are reasonable under the circumstances and should be awarded in the amounts sought.

DATED: May 13, 2016

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on May 13, 2016, I authorized the electronic filing of the foregoing with the Clerk of the Court using the CM/ECF system. The electronic case filing system sent a "Notice of Electronic Filing" to the attorneys of record who have consented in writing to accept this notice as service of this document by electronic means.

s/ Jeffrey D. Light
JEFFREY D. LIGHT

Mailing Information for a Case 1:15-cv-03813 Firerock Global Opportunity Fund LP v. Rubicon Technology, Inc. et al

Electronic Mail Notice List

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Manual Notice List

The following is the list of attorneys who are **not** on the list to receive e-mail notices for this case (who therefore require manual noticing). You may wish to use your mouse to select and copy this list into your word processing program in order to create notices or labels for these recipients.

- (No manual recipients)